

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROBERT ANSARA, Executor of the Estate of)
 Nancy Quon,)
)
 Plaintiff,)
)
 vs.)
)
 STATE FARM FIRE AND CASUALTY)
 COMPANY; JOHN YEAGER; JOE SLADEK, II,)
)
 Defendants.)

Case No. 2:15-cv-00365-GMN-GWF

ORDER

This matter is before the Court on Defendants' Motion to Disqualify Plaintiff's Counsel (#17), filed on April 10, 2015. Plaintiff filed his Opposition (#22) on April 27, 2015 and Defendants filed their Reply (#24) on May 4, 2015. The Court conducted a hearing in this matter on May 15, 2015.

Defendants have raised issues which may support the conclusion that Mr. Reinmiller will be a material trial witness for the Defendants and should therefore be precluded from acting as trial counsel for the Plaintiff. However, until discovery in this action is conducted and Mr. Reinmiller's alleged involvement in or knowledge of the events in issue is further developed, a determination that he is a material witness cannot be made. *See e.g. Microsoft Corp. v. Immersion Corp.*, 2008 WL 682, *3 (W.D.Wash. 2008); *United States v. Pesky*, 2011 WL 3204707, *4 (D.Idaho 2011). The Court therefore finds that Defendants' motion to disqualify Plaintiff's counsel, Nathan Reinmiller, as Plaintiff's trial counsel is premature and will deny it without prejudice.

Also before the Court is Plaintiff's Motion for Sanctions Pursuant to Rule 11 (#26), filed on May 15, 2015, in which Plaintiff contends that Defendants should be sanctioned for filing a frivolous motion to disqualify Plaintiff's counsel. Although the Court finds that Defendants' motion to disqualify

1 is premature, it does not find it to be frivolous. Furthermore, Plaintiff failed to comply with the safe
2 harbor provisions of Rule 11(c)(2) by serving the motion for sanctions on Defendants in a timely
3 manner and affording them an opportunity to withdraw the motion to disqualify. The Court will
4 therefore deny Plaintiff's motion for Rule 11 sanctions. Accordingly,

5 **IT IS HEREBY ORDERED** that Defendants' Motion to Disqualify Plaintiff's Counsel (#17)
6 is **denied**, without prejudice to renew it at an appropriate time.

7 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Sanctions Pursuant to Rule 11 (#26)
8 is **denied**.

9 DATED this 15th day of May, 2015.

10
11 

12 GEORGE FOLEY, JR.
13 United States Magistrate Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28